

Supreme Court, U.S.

FILED

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JOSEPH F. SPANIO,
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NO. 87-1385

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

HELMUT RAMPP, et ux.,

Petitioners,

v.

LUZERNE COUNTY ASSESSMENT AND
VALUATION BOARD,

Respondents,

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA

[SUPPLEMENTAL APPENDIX]

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MEMORANDUM OPINION
BY SENIOR JUDGE KALISH

FILED: September 10, 1986

Helmut and Judith Rampp (appellents) appeal an order of the Court of Common Pleas of Luzerne County which affirmed a decision of the Luzerne County Assessment and Valuation Board denying the appeal of a tax assessment. We affirm.

Appellants purchased a two-story cottage, known as cottage #33, at the Patterson Groce Camp Ground for \$2,750. The ground on which the cottage was situated is located on a tract of 27.7 acres in Fairmont Township owned by the Patterson Grove Camp Association. In addition, the tract of ground has about one-hundred individual one- or two-story cottages, a multi-unit residential or boarding building, a tabernacle, and a recreation building. The grounds, recreation hall, tabernacle, and boarding house are exempt from taxation.



Cottage #33 was assessed for \$950, for improvements only.

At the time that appellants purchased the cottage building, the Patterson Grove Camp Meeting Ass. leased to them ground on which the cottage is situated and the use of a water supply for \$70 annually, subject to the adherence to the rules and regulations of the Ass. According to these rules and regulations, appellants can use the property only from April through October. Appellants purchased the cottage specifically for use during a two-week camp meeting period. The camp meeting period consists of religious services at the tabernacle, during which time activities not pertaining to religious matters are not permitted.

Camp religious services include a Bible school and study for children and adults, plus evening church services.

Church services are conducted in the camp at the tabernacle, which services can be heard from the porch of the cottage. Appellants sleep and eat at the cottage and there are discussions about the religious happenings of the day.

This appeal concerns only the status for tax purposes, of cottage #33. Appellants contend that the cottage is used exclusively for a religious purpose, and therefore is exempt from taxation.

Our scope of review in tax assessment cases is restricted to a determination of whether the trial court committed an error of law or abused its discretion. Dana Corp. v. Wentz, ___ Pa. Commonwealth Ct. ___, 505 A.2d 639 (1986).

The taxpayer has the burden of rebutting the validity of the assessment. He can show this by proving entitlement to



an exemption. Dietch Co. Board of Property Assessment, 417 Pa. 213, 209 A.2d 397 (1965).

To be exempt from taxation, the place must be an actual place of religious worship. Section 204 of the General County Assessment Law (law), Act of May 22, 1933, P.L. 853, as amended, 72 P.S. §5020-204(a); Pennsylvania Constitution, Art. VIII, §2(a). Section 201 of the law, 72 P.S. §5020-201, provides that houses and all other real estate not exempt by law from taxation shall be valued and assessed. Here the tax was levied upon cottage #33, a building attached to the land.¹

Is cottage #33 an actual place of regularly stated religious worship?

To come within the exempting clause, it must be an actual place of religious worship which contemplates a place consecrated to religious worship, where people



statedly join together, in some form of worship, and not merely individual communion with one's maker apart from a church, meeting house or some regular places of stated wordhip — otherwise anybody could claim exemption to his individual property by using it for religious meditation at stated intervals.

Laymens' Week-end Retreat League of Phil. v. Butler, 83 Pa. Super Ct. 1, 5-6 (1924)
(citations omitted) (emphasis added).

The record and findings by the trial court show that while religious services conducted at the tabernacle could be heard from its porch, the cottage was primarily used for dining, sleeping and discussions during the day between appellants and their children of the day's activities. It was not used primarily as a facility for the conducting of religious worship. It was purely incidental to the religious use of other parts of the camp grounds. SEE Mount Zion New Center v. Board of [Ass.], ___, Pa. Cmwlth. Ct. ___, 503 A.2d 1065 (1986).

/s/ Kalish, J.
JACOB KALISH, Senior Judge

¹Black's Law Dictionary, 5th Ed., defines real estate as including not only land, but anything permanently affixed to the land such as buildings.

HELMUT RAMPP, : IN THE
JUDITH RAMPP, COMMONWEALTH COURT
Appellants : OF PENNSYLVANIA

v. :

LUZERNE COUNTY ASS. and : NO.830 C.D. 1986
VALUATION BD.,
Appellees :

ORDER

NOW, September 10, 1986, the order of the Court of Common Pleas of Luzerne County, No. 4858-C of 1985, dated February 25, 1986, is affirmed.

/s/ Kalish, J.

JACOB KALISH, Senior Judge